

DEPARTMENT OF EDUCATION**34 CFR Part 75****Direct Grant Programs**

AGENCY: Department of Education.

ACTION: Optional procedure for conducting fiscal year 1995 grant competitions under the Improving America's Schools Act of 1994.

SUMMARY: The Secretary establishes an optional procedure for conducting fiscal year (FY) 1995 grant competitions under the Improving America's Schools Act of 1994. The Secretary takes this action to reduce the need for Federal regulations, to ensure timely award of grants in FY 1995, and to provide an additional mechanism for awarding grants that addresses Congress' intent in enacting the affected program authorities.

EFFECTIVE DATE: This procedure takes effect April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Steven N. Schatken, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue SW., Room 5100, FB10-B, Washington, D.C. 20202-2241. Telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Improving America's Schools Act of 1994 (IASA) was enacted on October 20, 1994 (Pub. L. 103-382). The IASA authorizes numerous discretionary grant programs under which the Secretary will be conducting competitions in FY 1995. The Secretary wishes to conduct these grant competitions as quickly as possible so that grantees will have adequate time for planning and preparation before the next school year begins. The Secretary also intends to keep Federal regulation to a minimum under the IASA in order to provide flexibility to State and local governments and other eligible applicants in designing effective programs to serve the intended beneficiaries of these programs.

The Secretary will be using several techniques to meet the goals of fewer regulations and expedited grant awards,

including, for some programs, using procedures currently in the Education Department General Administrative Regulations (EDGAR) for programs that do not have regulations. For these programs, EDGAR provides selection criteria for choosing among competing grant applications (34 CFR 75.210). However, the EDGAR selection criteria are necessarily very general, and for some programs the EDGAR criteria may not adequately focus grant applications on specific provisions that are contained in the program statutes that govern the competitions. Therefore, the Secretary establishes the following procedure that may be used to create more targeted selection criteria in appropriate situations. The Secretary will soon publish a separate notice of proposed rulemaking in the Federal Register to amend EDGAR and make this a permanent option in future fiscal years for all of the Department's discretionary grant programs.

Procedure for Establishing Statutory Selection Criteria

Under this procedure, the Secretary may establish selection criteria for evaluating applications by assigning points to particular statutory provisions, such as allowable activities, application content requirements, or other pre-award and post-award conditions. Applications would be evaluated based on how well the applicants address each of those statutory provisions. The Secretary may also include any of the selection criteria in EDGAR (34 CFR 75.210), but the EDGAR criteria would not otherwise apply.

Each of the criteria, whether based on a statutory provision or taken from EDGAR, would be assigned a maximum number of points that an applicant could score under that criterion. The selection criteria would be included in the application package that the Department provides to all applicants.

This procedure applies only to fiscal year 1995 grant competitions under programs that were newly enacted in, or substantially revised by, the IASA. To the extent that any regulations in EDGAR are inconsistent with this procedure, those regulations would not apply if this procedure is used.

Example: A hypothetical program statute creates a discretionary grant

program for support of innovative secondary school programs. Among other requirements, the statute provides that each application must describe how the applicant for a grant will address the needs of limited English proficient children.

Under this procedure, the Secretary would create a full set of selection criteria for the fiscal year 1995 grant competition from the statute and EDGAR, with a total maximum score for all of the criteria determined by the Secretary. (Usually, the Department's grant competitions are based on selection criteria that have a total maximum score of 100.) As one of the criteria, the Secretary could evaluate applications based on how well the applicant proposes to meet the needs of limited English proficient children. The Secretary might decide to award up to 10 points for this criterion. Applicants who best addressed the needs of limited English proficient children would score the highest number of points under this criterion.

Waiver of Public Comment

It is the practice of the Secretary to ask for public comment. However, in accordance with section 437(d)(1) of the General Education Provisions Act (20 U.S.C. 1232(d)(1)), the Secretary has determined that, in order to make timely grant awards in fiscal year 1995 under the IASA, it is necessary to waive public comment on this procedure. The Secretary will request public comment on this procedure for future fiscal years in a separate notice of proposed rulemaking.

Paperwork Reduction Act of 1980

This procedure has been examined under the Paperwork Reduction Act of 1980 and has been found to contain no information collection requirements.

Authority: Improving America's Schools Act of 1994 (Pub. L. 103-382).

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: February 28, 1995.

Richard W. Riley,

Secretary of Education.

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